



General Assembly

Amendment

February Session, 2018

LCO No. 3656



Offered by:

SEN. GERRATANA, 6th Dist.

SEN. SOMERS, 18th Dist.

REP. STEINBERG, 136th Dist.

REP. BETTS, 78th Dist.

To: Subst. Senate Bill No. **165**

File No. 88

Cal. No. 72

**"AN ACT CONCERNING THE DEPARTMENT OF
DEVELOPMENTAL SERVICES' RECOMMENDATIONS
FOR
TECHNICAL REVISIONS TO ITS STATUTES."**

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- 1 In line 182, after "17a-227" insert ", as amended by this act"
 - 2 In line 232, after "17a-227," insert "as amended by this act,"
 - 3 In line 270, after "17a-227" insert ", as amended by this act,"
 - 4 In line 318, after "17a-227" insert ", as amended by this act,"
 - 5 After the last section, add the following and renumber sections and
 - 6 internal references accordingly:
 - 7 "Sec. 501. Section 45a-674 of the general statutes is repealed and the
 - 8 following is substituted in lieu thereof (*Effective from passage*):
 - 9 (a) At any hearing for appointment of a plenary guardian or limited

10 guardian, the court shall receive evidence as to the condition of the
11 respondent, including a written report or testimony by a Department
12 of Developmental Services assessment team appointed by the
13 Commissioner of Developmental Services or his or her designee, no
14 member of which is related by blood, marriage or adoption to either
15 the petitioner or the respondent and each member of which has
16 personally observed or examined the respondent within forty-five
17 days next preceding such hearing. The assessment team shall be
18 comprised of at least two representatives from among appropriate
19 disciplines having expertise in the evaluation of persons alleged to
20 have intellectual disability. The assessment team members shall make
21 their report on a form provided for that purpose by the office of the
22 Probate Court Administrator and shall answer questions on such form
23 as fully and completely as possible. The report shall contain specific
24 information regarding the severity of the intellectual disability of the
25 respondent and those specific areas, if any, in which the respondent
26 needs the supervision and protection of a guardian, and shall state
27 upon the form the reasons for such opinions. The petitioner,
28 respondent or the respondent's counsel shall have the right to present
29 evidence and cross-examine witnesses who testify at any hearing on
30 the petition. If the respondent or the respondent's counsel notifies the
31 court not less than three days before the hearing that he or she wishes
32 to cross-examine the witnesses, the court shall order such witnesses to
33 appear. The fees for such assessment team shall be paid from funds
34 appropriated to the Department of Developmental Services.

35 (b) The written report or testimony by the assessment team shall not
36 be required for a hearing on the appointment of a plenary guardian or
37 limited guardian if the individual has been determined ineligible for
38 services of the Department of Developmental Services by the
39 commissioner or his or her designee, provided such denial of eligibility
40 is based on the determination that the individual does not have
41 intellectual disability as defined in section 1-1g. A copy of the
42 eligibility determination letter indicating that the basis of ineligibility
43 is the absence of intellectual disability, as defined in section 1-1g, shall

44 be provided to the Probate Court in lieu of a report by the assessment
45 team and no further assessment by the team shall be required.

46 Sec. 502. Subsections (a) to (c), inclusive, of section 17a-227 of the
47 general statutes are repealed and the following is substituted in lieu
48 thereof (*Effective October 1, 2018*):

49 (a) No person, firm or corporation shall operate within this state a
50 community living arrangement or community companion home which
51 it owns, leases or rents for the lodging, care or treatment of persons
52 with intellectual disability, Prader-Willi syndrome or autism spectrum
53 disorder unless such person, firm or corporation, upon written
54 application, [verified by oath,] has obtained a license issued by the
55 Department of Developmental Services. An application for licensure
56 under this section shall be verified by oath, but need not be notarized.

57 (b) The commissioner shall adopt regulations, in accordance with
58 the provisions of chapter 54, to [insure] ensure the comfort, safety,
59 adequate medical care and treatment of such persons at the residential
60 facilities described in subsection (a) of this section. Such regulations
61 shall include requirements that: (1) All residential facility staff be
62 certified in cardiopulmonary resuscitation in a manner and time frame
63 prescribed by the commissioner; (2) records of staffing schedules and
64 actual staff hours worked, by residential facility, be available for
65 inspection by the department upon advance notice; (3) each residential
66 facility develop and implement emergency plans and staff training to
67 address emergencies that may pose a threat to the health and safety of
68 the residents of the facility; (4) department staff verify during quality
69 service reviews and licensing inspections, that (A) staff is adequately
70 trained to respond in an emergency, and (B) a summary of information
71 on each resident is available to emergency medical personnel for use in
72 an emergency; (5) all residential facilities serving persons with Down
73 syndrome fifty years of age or older have at least one staff member
74 trained in Alzheimer's disease and dementia symptoms and care; and
75 (6) [not less than one-half of the quality service reviews, licensing
76 inspections or facility visits conducted by the department after initial

77 licensure] for community living arrangements, the commissioner shall
78 determine a minimum number of licensure-related visits that are
79 unannounced.

80 (c) After receiving an application and making such investigation as
81 is deemed necessary and after finding the specified requirements to
82 have been fulfilled, the department shall grant a license to such
83 applicant to operate a facility of the character described in such
84 application, which license shall specify the name of the person to have
85 charge and the location of each facility operated under the license. Any
86 person, firm or corporation aggrieved by any requirement of the
87 regulations or by the refusal to grant any license may request an
88 administrative hearing in accordance with the provisions of chapter 54.
89 If the licensee of any such facility desires to place in charge thereof a
90 person other than the one specified in the license, application shall be
91 made to the Department of Developmental Services, in the same
92 manner as provided for the original application, for permission to
93 make such change. Such application shall be acted upon not later than
94 ten calendar days from the date of the filing of the application. Each
95 such license shall be renewed annually upon such terms as may be
96 established by regulations and may be revoked by the department
97 upon proof that the facility for which such license was issued is being
98 improperly operated, or for the violation of any of the provisions of
99 this section or of the regulations adopted pursuant to this section,
100 provided the licensee shall first be given a reasonable opportunity to
101 be heard in reference to such proposed revocation. Any person, firm or
102 corporation aggrieved by such revocation may request an
103 administrative hearing in accordance with the provisions of chapter 54.
104 Each person, firm or corporation, upon filing an application under the
105 provisions of this section for a license for a community living
106 arrangement, shall pay to the State Treasurer the sum of fifty dollars
107 unless such fee is waived by the commissioner.

108 Sec. 503. Subsection (g) of section 17a-238 of the 2018 supplement to
109 the general statutes is repealed and the following is substituted in lieu
110 thereof (*Effective October 1, 2018*):

111 (g) The commissioner's oversight and monitoring of the medical
112 care of persons placed or treated under the direction of the
113 commissioner does not include the authority to make treatment
114 decisions, except in limited circumstances in accordance with statutory
115 procedures. In the exercise of such oversight and monitoring
116 responsibilities, the commissioner shall not impede or seek to impede a
117 properly executed medical order to withhold cardiopulmonary
118 resuscitation. For purposes of this subsection, "properly executed
119 medical order to withhold cardiopulmonary resuscitation" (1) means
120 [(1)] (A) a written order by the attending physician or advanced
121 practice registered nurse; [(2)] (B) in consultation and with the consent
122 of the patient or a person authorized by law; [(3)] (C) when the
123 attending physician or advanced practice registered nurse is of the
124 opinion that the patient is in a terminal condition, as defined in section
125 19a-570; [, which condition will result in death within days or weeks;]
126 and [(4)] (D) when such physician or advanced practice registered
127 nurse has requested and obtained a second opinion from a Connecticut
128 licensed physician or advanced practice registered nurse in the
129 appropriate specialty that confirms the patient's terminal condition;
130 and (2) includes the entry of such an order when the attending
131 physician or advanced practice registered nurse (A) is of the opinion
132 that the patient is in the final stage of a terminal condition but cannot
133 state that the patient may be expected to expire during the next several
134 days or weeks, or [,] (B) in consultation with a physician qualified to
135 make a neurological diagnosis, deems the patient to be permanently
136 unconscious, provided the commissioner has reviewed the decision
137 with the department's director of [community medical services] health
138 and clinical services, or such director's designee, the [family and
139 guardian] legal representative of the patient and others whom the
140 commissioner deems appropriate, and determines that the order is a
141 medically acceptable decision. The provisions of this subsection shall
142 not apply to individuals with a legally valid advance directive."

This act shall take effect as follows and shall amend the following sections:

Sec. 501	<i>from passage</i>	45a-674
Sec. 502	<i>October 1, 2018</i>	17a-227(a) to (c)
Sec. 503	<i>October 1, 2018</i>	17a-238(g)